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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,565	11/20/2001	Stephen R. Bacso	3/2636-10	2982

7590

12/18/2006

OSTROLENK, FABER, GERB & SOFFEN, LLP  
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NEW YORK, NY 11036-8403

EXAMINER
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USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/991,565	BACSO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph G. Ustaris	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 7-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 7-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 September 2006 has been entered.

Claims 1 and 7-25 are pending. Claims 1, 9, 14, 15, 17, and 21 are amended.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7-13, 15, 18, 19, 20-22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US006698020B1) in view of Rosser (US006446261B1) and Hendricks et al. (US005559549A).

Regarding claim 1, Zigmond et al. (Zigmond) discloses a method for automated reporting to a data collection system in a communications network (e.g. the clearinghouse, See column 9 lines 48-52), of a log of viewing history and habits of a plurality of viewers in a plurality of households selected for presenting target content

(e.g. targeted advertisements) (See Fig. 4; col. 9 line 21 – col. 10 line 15). The system collects in the log information about which viewer in a household of viewers was watching content (See col. 9 lines 21-38 and col. 9 line 56 – col. 10 line 3); records in the log events of the viewer making a selection of the content and the viewer viewing the content (See col. 9 lines 21-38 and col. 9 line 56 – col. 10 line 3); and reporting contents of the log to a reporting facility (See col. 9 lines 48-55). However, Zigmond does not explicitly disclose (1) identifying the viewer without requiring active input from the viewer and (2) the time of reporting to the reporting facility is determined by received reporting triggers.

(1) Rosser discloses a system that monitors viewers' usage in order to deliver targeted content to viewers. Rosser discloses that different viewers can use the system and the system identifies the viewers without requiring active input from the viewer (e.g. biometric means such as signature, fingerprint, or retina pattern) (See column 15 lines 10-28). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond to identify the viewers using a biometric means that does not require active input from the viewer, as taught by Rosser, in order to expand the capabilities of the system thereby providing an efficient and convenient means for the viewers to log onto the system.

(2) Hendricks et al. (Hendricks) discloses a system that monitors viewers' usage within a television system. Hendricks discloses that the each set top terminal reports contents of the log to a reporting facility. The time of reporting are determined by received reporting triggers (e.g. polling by the network controller) (See column 9 lines

23-41). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond to have the time of reporting to the reporting facility be determined by received reporting triggers (e.g. polling), as taught by Hendricks, in order to expand the capabilities of the system thereby providing an efficient means to manage and maintain complete information on all the programs watched within the system by the viewers.

Regarding claim 7, content providers use the contents of the log to target new content and receiver parameters matching the new content to the viewers (See Zigmond col. 9 lines 33-38 and lines 52-55).

Regarding claim 8, Zigmond in view of Rosser and Hendricks discloses using the content of the log to target new content to the viewer and to determine when a content viewing opportunity arises (See Zigmond col. 9 lines 21-38 and col. 11 lines 13-30). However, Zigmond in view of Rosser and Hendricks does not disclose maintaining viewer confidentiality.

Official Notice is taken that it is well known in the art to maintain viewer confidentiality. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond in view of Rosser and Hendricks to maintain viewer confidentiality in order to provide security features within the system that will protect the viewers.

Regarding claim 9, the system accepts a viewer input to the receiver inherently from one of: a receiver's remote control, a receiver's keyboard, a receiver's front-panel switches in order to successfully make a selection (See Zigmond col. 9 lines 30-31);

records the log on the receiver (See Zigmond Fig. 4, collection location 61; col. 9 lines 42-45); and analyzing the viewer input at a head-end to determine which viewer in the household was watching the content (See Zigmond col. 9 line 39 – col. 10 line 3).

Regarding claim 10, the viewer input includes a combination of keystrokes (See Zigmond col. 9 lines 21-38, e.g. channel changes), a content selection (See Zigmond col. 9 lines 21-38, e.g. selecting an advertisement), timing (See Zigmond col. 11 lines 13-30, e.g. monitoring the amount of time spent viewing), and a selection of a viewer profile on the receiver (See Zigmond col. 9 lines 56-65, e.g. the viewer logging in).

Regarding claim 11, the viewer input further includes control input for triggering of functional opportunities (See Zigmond col. 9 lines 21-38, e.g. the viewer selecting an ad triggers an ad to be displayed to the viewer).

Regarding claim 12, the viewer input is analyzed to determine viewer's viewing habits according to frequency of the viewer input (e.g. channel changes), selections of the viewer input (e.g. selecting an ad), and the content selected as a result of the viewer input (e.g. the selected ad) (See Zigmond col. 9 lines 21-38 and col. 11 lines 13-30).

Regarding claim 13, the level of detail of the log is selected from the selections made by the viewer (See Zigmond col. 9 lines 21-38 and col. 11 lines 13-30).

Regarding claim 15, Zigmond in view of Rosser and Hendricks does not disclose that the storage space used by the log is managed and the log can be deleted in accordance with temporal factors.

Official Notice is taken that it is well known in the art to manage storage space by deleting data in accordance with temporal factors. Therefore, it would have been

obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond in view of Rosser and Hendricks to manage storage space by deleting data in accordance with temporal factors in order to ensure that space is available to record new logs.

Regarding claim 18, Zigmond in view of Rosser and Hendricks does not disclose that the receiver includes conditional access features for securely transmitting the log.

Official Notice is taken that it is well known in the art to securely transmit data. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond in view of Rosser and Hendricks in order to provide security features within the system that will protect the viewers as well as the system.

Regarding claim 19, reporting is performed in real-time or deferred, and wherein the deferred reporting aggregates a plurality of logs and reports all aggregated logs (See Zigmond col. 9 lines 45-55).

Regarding claim 20, recording of the log is performed in response to external real-time triggers (See Zigmond col. 9 lines 21-38, e.g. displaying of the ads), the external triggers being pre-selection of content (See Zigmond col. 9 lines 21-38 e.g. the viewer is given multiple ads to view) and internal triggers are one of a plurality of interactions of the receiver (See Zigmond col. 9 lines 21-38, e.g. the selection of one ad from the viewer inputted to the receiver).

Regarding claim 21, Zigmond in view of Rosser and Hendricks does not disclose triggers that include an address and phone number to which the logs is to be sent.

Official Notice is taken that it is well known in the art for triggers to include address and phone number. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond in view of Rosser and Hendricks to include an address and phone number to which the logs is to be sent in order to ensure that the information is delivered to the correct location.

Regarding claim 22, Zigmond in view of Rosser and Hendricks does not disclose triggers that are selected from one of demographic based and/or statistically based.

Official Notice is taken that it is well known in the art to select triggers based on demographic and/or statistic. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond in view of Rosser and Hendricks to select triggers based on demographic and/or statistic in order to enhance the means of targeting receivers/viewers thereby providing more options for the content providers when gathering information.

Regarding claim 25, the communications network includes a broadcast network (See Zigmond Fig. 8, feed 52) and a plurality of interactive networks (e.g. Internet) (See Zigmond Fig. 8; col. 10 lines 4-15).

Claims 14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US006698020B1) in view of Rosser



(US006446261B1) and Hendricks et al. (US005559549A) as applied to claims 1, 7-13, 15, 18, 19, 20-22, and 25 above, and further in view of Ohkura et al. (US006347400B1).

Regarding claim 14, Zigmond in view of Rosser and Hendricks does not disclose accumulating and storing of the log is performed within the facilities of a conditional access system (CAS) used for impulse pay-per-view (IPPV) purchase recording.

Ohkura et al. (Ohkura) discloses a system that records the viewing history of the user within an IPPV system. Ohkura discloses that a log is used to store viewing histories within an IC card system that is also represented of the IPPV programs the viewer viewed or “accumulating and storing of the log is performed within the facilities of a conditional access system (CAS) used for impulse pay-per-view (IPPV) purchase recording” (See Fig. 1, IC card and card reader; col. 5 lines 24-33). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond in view of Rosser and Hendricks to accumulate and store the log within the facilities of a conditional access system (CAS) used for impulse pay-per-view (IPPV) purchase recording, as taught by Ohkura, in order to expand the capabilities of the system thereby providing an efficient means for billing the viewers for the IPPV viewed by the viewer.

Regarding claim 16, the log (e.g. the viewing histories of the viewer) and the PPV purchase (e.g. the IPPV programs viewed by the viewer reported in the viewing histories) are reported together by the CAS (See Ohkura col. 5 lines 24-33).

Regarding claim 17, the reporting (e.g. the viewing histories) and the PPV purchase (e.g. the IPPV programs viewed by the viewer reported in the viewing

histories) is performed simultaneously in a broadcast network and an interactive network between a plurality of viewers and a head-end (e.g. the processing system) (See Ohkura Fig. 1, broadcast waves, modem, and T1 line; col. 5 lines 24-33).

Claims 23 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US006698020B1) in view of Rosser (US006446261B1) and Hendricks et al. (US005559549A) as applied to claims 1, 7-13, 15, 18, 19, 20-22, and 25 above, and further in view of Sitnik (US20020010935A1).

Regarding claim 23, Zigmond in view of Rosser and Hendricks does not disclose geographical triggers to include only receivers in a particular postal code area to signal reporting of logs only from the receivers in that postal code area.

Sitnik discloses a system that collects viewing information from other televisions. Sitnik discloses that a service provider can request how many people in a zip code are watching a certain program. Inherently, the system sends out geographical triggers to receivers and only the receivers in that zip code will report or "geographical triggers to include only receivers in a particular postal code area to signal reporting of logs only from the receiver in that postal code area" in order to successfully receive the requested information (See paragraph 0024). The geographical triggers are broadcasts over a wide geographical area (e.g. all the receivers within the zip code will receive a geographical trigger) (See paragraph 0024). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond in view of Rosser and Hendricks to create geographical triggers

to include only receivers in a particular postal code area to signal reporting of logs only from the receivers in that postal code area, as taught by Sitnik, in order to give the providers more options on how and where information is collected thereby giving the providers more targeted statistics.

Regarding claim 24, Zigmond in view Rosser, Hendricks, and Sitnik does not disclose a step of load balancing, wherein the receivers from different postal codes area are reporting to different local servers and the different local servers forward the logs to a bank of central servers at a control center.

Official Notice is taken that it is well known in the art to perform load balancing. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Zigmond in view of Rosser, Hendricks, and Sitnik to perform load balancing in order to allow the system to efficiently use the network's bandwidth thereby reducing the risks of overloading the network.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1 and 7-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

Art Unit: 2623


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JGU

December 5, 2006



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